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11 Attorneys for Defendant
GOOGLE INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,

16 Plaintiffs,

17 v.

18 GOOGLE, INC.,

19 Defendant.
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Case No. 3:10-cv-03561 WHA (DMR)

**DECLARATION OF EDWARD A.
BAYLEY IN SUPPORT OF GOOGLE'S
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE A MOTION FOR
RECONSIDERATION RE THE COURT'S
ORDER DENYING SEALING OF
GOOGLE-APPLE INFORMATION, AND
ADMINISTRATIVE MOTION TO SEAL
ADDITIONAL GOOGLE FINANCIAL
INFORMATION**

Dept. Courtroom 4, 3rd Floor (Oakland)
Judge: Hon. Donna M. Ryu

1 I, EDWARD A. BAYLEY, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am an
3 associate at the law firm of Kecker & Van Nest LLP, counsel to Google Inc. ("Google") in the
4 above-captioned action. I submit this declaration in support of Google's Administrative Motion
5 for Leave to File a Motion for Reconsideration re the Court's Order Denying Sealing of Google-
6 Apple Information, and Administrative Motion to Seal Additional Google Financial Information.
7 I have knowledge of the facts set forth herein, and if called upon as a witness, I could testify to
8 them competently under oath.

9 2. During the January 14, 2016 discovery hearing on Oracle's Motion to Compel
10 (Dkt. No. 1404) counsel for Oracle disclosed information regarding Google's sensitive, non-
11 public revenues and profits associated with Android. January 14, 2016 Tr. at 4:10-13, 6:19-20.
12 This information was derived from internal Google financial documents that Google has
13 designated as "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY" under the Protective
14 Order that governs this case. Dkt. No. 66. Oracle did not provide any advance notice to Google
15 that it intended to disclose this highly confidential information at the hearing.

16 3. Google does not publicly allocate revenues or profits to Android separate and apart
17 from Google's general business. Google considers that non-public financial data to be highly
18 sensitive, and public disclosure of the information described herein could have significant
19 negative effects on Google's business. Indeed, this Court has previously considered and granted
20 Google's requests to file under seal the amount of Android-related revenues and profits. *See* Dkt.
21 No. 1387. In addition, Judge Alsup has granted several other requests to file under seal similar
22 financial information, including the revenues and profits associated with Android. *See, e.g.,* Dkt.
23 No. 935, Dkt. No. 1056, Dkt. No. 1122, Dkt. No. 1375.

24 4. During the January 14, 2016 discovery hearing, Oracle's counsel also disclosed
25 confidential financial terms of an agreement between Google and non-party Apple Inc. January
26 14, 2016 Tr. at 29:24-25. This information was derived from deposition testimony that Google
27 has designated as "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY" under the
28 Protective Order that governs this case. Dkt. No. 66. Oracle did not provide any advance notice

1 to Google that it intended to disclose this highly confidential information at the hearing.

2 5. Public disclosure of the Apple-related financial information would severely and
3 adversely impact Google's ability to negotiate, *inter alia*, similar terms with other third parties in
4 connection with similar agreements now or in the future. In addition to being highly confidential
5 to Google, this information is also subject to a non-disclosure agreement with Apple and
6 constitutes Apple's confidential information. I understand that Apple may submit a declaration
7 setting forth the reasons why this financial information is highly confidential to Apple, and why
8 public dissemination of this financial information would harm Apple.

9 6. On January 19, 2016 at 11:49 a.m., counsel for Google sent a letter to counsel for
10 Oracle by email asking Oracle to join Google's formal request to the Court to seal above-
11 described portions of the January 14, 2016 hearing transcript. Google's counsel reached out to
12 Oracle again on January 20, 2016. Oracle has not responded to Google's correspondence.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct to the best of my knowledge.

15 Executed on this 20th day of January, 2016 at San Francisco, California.

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17
18 By: 

19 Edward A. Bayley
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